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**Transgender participation in secondary schools bill**  
message

lelissa White <Melissa.White@wvhouse.gov>  
o: Bernie Dolan <bernie.dolan@wvssac.org>, Bernie Dolan <bdolan@k12.wv.us>


Thu, Mar 11, 2021 at 9:53 A

Bernie,

Attached is a draft of an originating bill regarding transgender participation in sports. I kept it short. There are obviously certain things that would need to be handled in a rule, unless you have language that you would like to see in the bill. Please let me know your thoughts and if there are any unintended consequences. The Chairman does not want to keep girls from participating in boys sports when there are not girls teams.

Thanks,  
Melissa

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 Transgender originating bill.docx  
36K

WVSSAC000228

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# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Originating**

**House Bill Number**

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[Originating in the Committee on Education; Reported

on January 14, 2016]

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1 A BILL

*Be it enacted by the Legislature of West Virginia:*

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students.**

1 (a) The county boards of education shall exercise the control, supervision, and regulation  
2 of all interscholastic athletic events, and other extracurricular activities of the students in public  
3 secondary schools, and of those schools of their respective counties. The county board of  
4 education may delegate control, supervision, and regulation of interscholastic athletic events and  
5 band activities to the West Virginia Secondary School Activities Commission.

6 (b) The West Virginia Secondary School Activities Commission is composed of the  
7 principals, or their representatives, of those secondary schools whose county boards of education  
8 have certified in writing to the State Superintendent of Schools that they have elected to delegate  
9 the control, supervision, and regulation of their interscholastic athletic events and band activities  
10 of the students in the public secondary schools in their respective counties to the commission.  
11 The West Virginia Secondary School Activities Commission may exercise the control, supervision,  
12 and regulation of interscholastic athletic events and band activities of secondary schools,  
13 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities  
14 Commission shall contain a provision for a proper review procedure and review board and be  
15 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all  
16 instances, be subject to the prior approval of the state board. The West Virginia Secondary School  
17 Activities Commission, may, with the consent of the State Board of Education, incorporate under  
18 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock  
19 corporation under the provisions of chapter 31 of this code. County boards of education may

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20 expend moneys for and pay dues to the West Virginia Secondary School Activities Commission,  
21 and all moneys paid to the commission, as well as moneys derived from any contest or other  
22 event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this  
23 code, and the funds of the commission are subject to an annual audit by the State Tax  
24 Commissioner.

25 (c) The West Virginia Secondary School Activities Commission shall promulgate  
26 reasonable rules providing for the control, supervision, and regulation of the interscholastic  
27 athletic events and other extracurricular activities of private and parochial secondary schools as  
28 elect to delegate to the commission control, supervision, and regulation, upon the same terms  
29 and conditions, subject to the same rules and requirements and upon the payment of the same  
30 fees and charges as those provided for public secondary schools. Any such private or parochial  
31 secondary school shall receive any monetary or other benefits in the same manner and in the  
32 same proportion as any public secondary school.

33 (d) Notwithstanding any other provision of this section, or the commission's rules, the  
34 commission shall consider eligible for participation in interscholastic athletic events and other  
35 extracurricular activities of secondary schools a student who is receiving home instruction  
36 pursuant to §18-8-1(c) of this code and who:

37 (1) Has demonstrated satisfactory evidence of academic progress for one year in  
38 compliance with the provisions of that subsection: *Provided*, That the student's average test  
39 results are within or above the fourth stanine in all subject areas;

40 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the  
41 applicable virtual instruction policy of the county board in which the home-schooled student lives  
42 and the State Board;

43 (3) Has not reached the age of 19 by August 1 of the current school year;

44 (4) Is an amateur who receives no compensation but participates solely for the  
45 educational, physical, mental and social benefits of the activity;

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46 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School  
47 Activities Commission and the county board in which the home-schooled student lives; and

48 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission  
49 governing awards, all-star games, parental consents, physical examinations, and vaccinations  
50 applicable to all high school athletes.

51 Eligibility is limited to participation in interscholastic athletic events and other  
52 extracurricular activities at the public secondary school serving the attendance zone in which the  
53 student lives: *Provided*, That home-schooled students who leave a member school during the  
54 school year are subject to the same transfer protocols that apply to member-to-member transfers.  
55 Reasonable fees may be charged to the student to cover the costs of participation in  
56 interscholastic athletic events and other extracurricular activities.

57 (e) The West Virginia Secondary School Activities Commission shall recognize  
58 preparatory athletic programs, whose participants attend a secondary school in West Virginia for  
59 academic instruction, as nonparticipating members of the commission solely for the purpose of  
60 competing on the national level: *Provided*, That the preparatory athletic program shall pay the  
61 same fees as member schools. Such recognition does not entitle the preparatory athletic program  
62 to compete against a member school during the regular season or in any commission state  
63 championship events. The commission may promulgate an emergency rule pursuant to  
64 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

65 (f) A student's gender for purposes of participation in single-sex secondary school  
66 interscholastic athletic events must be determined by the student's sex at the time of the student's  
67 birth, as indicated on the student's original birth certificate. If a birth certificate provided by a  
68 student pursuant to this subsection does not appear to be the student's original birth certificate or  
69 does not indicate the student's sex upon birth, then the student must provide other evidence  
70 indicating the student's sex at the time of birth: *Provided*, That the student or the student's parent  
71 or guardian must pay any costs associated with providing the evidence required under this

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72 subsection. The commission may promulgate an emergency rule pursuant to subsection (b) of  
73 this section, if necessary, to carry out the intent of this subsection.

74 This subsection does not prohibit students from participating in a co-educational  
75 secondary school interscholastic athletic events. Students may participate in a co-educational  
76 secondary school interscholastic athletic events without having to comply with the requirements  
77 of this section.

NOTE: The purpose of this bill is to require that a secondary student athlete's participation in single-sex athletics be based upon the athlete's biological sex, as indicated on the athlete's original birth certificate issued at the time of birth.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.